IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

SECOND APPEAL NO. 1010 OF 2004

Office notes, office memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders.

Shri P.N.Joshi for the Appellant.

CORAM : ABHAY S.OKA, J.

DATED : 25th August, 2004.

P.C.:

1. The Second Appeal is by the unsuccessful Plaintiff in a suit for specific performance. There are findings of fact recorded by the Courts below against the Appellants on all counts. The learned Counsel appearing for the Appellant submitted that in the absence of any specific pleading of fraud in the Written Statement the Courts below could not have disbelieved the case of the Appellant that the suit agreement was executed by the Respondents. He relied upon the notes of evidence and the pleadings of the parties.

2. A perusal of the Judgments of the Courts below shows that the claim of the Appellant is negatived not only on the ground of fraud, but there are various circumstances taken into account by the Courts below which are borne out by the evidence

on record. The Appellate Court has given reasons as to why discretion under section 20 of the Specific Relief Act 1963 should be exercised against the Appellant even assuming that the agreement for sale is proved.

3. In this view of the matter, no substantial question of law arises in this Second Appeal. Hence the Second Appeal is dismissed with no order as to costs.

Judge.